

AMENDED IN ASSEMBLY MARCH 13, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 204**

**Introduced by Assembly Member Nation**

**(Coauthors: Assembly Members Chan, Hancock, Leno, Lieber,  
Mullin, Wolk, and Yee)**

**(Coauthor: Senator Torlakson)**

January 28, 2003

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An act to amend Section 31164 of, and to add Sections 31165, 31166, and 31167 to, the Public Resources Code, and to add Section 9250.20 to the Vehicle Code, relating to the ~~State Coastal Conservancy vehicles,~~ and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 204, as amended, Nation. ~~State Coastal Conservancy: motor~~ *Motor* vehicles: environmental impacts: mitigation.

Existing law establishes the San Francisco Bay Area Conservancy Program, which is administered by the State Coastal Conservancy (conservancy), in order to address identified resources and recreational goals of the San Francisco Bay area in a coordinated, comprehensive, and effective way. Under that program, the conservancy is authorized to undertake projects and award grants in the 9-county San Francisco Bay area in order to achieve specified goals. Existing law establishes a San Francisco Bay Area Conservancy Program Account in the State Coastal Conservancy Fund for the purposes of depositing and distributing funds for the administration and implementation of the program. Existing law segregates the money in the account into 2 specified subaccounts.

This bill would ~~authorize the conservancy to~~ establish a 3rd subaccount (the ~~Transportation Fund For Clean Water Motor Vehicle Mitigation~~ Subaccount) within the account and ~~authorize the conservancy to request the Department of Motor Vehicles, until January 1, 2015, to collect a fee of up to \$4 upon the registration or registration renewal of every motor vehicle registered in a participating county if at least 3 or more eligible counties elect to participate. The bill makes the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma eligible for participation. The bill would require a majority vote of the county board of supervisors in order for an eligible county to participate and for the registration fee to be imposed in that county. Until January 1, 2015, the Department of Motor Vehicles would be required to collect these fees upon the request of the conservancy.~~

The bill would require the ~~fees funds~~ in the new subaccount, ~~upon appropriation, to be used by the conservancy to be continuously appropriated, without regard to fiscal year, to the conservancy and to the State Water Resources Control Board in specified amounts in order to fund projects and grants in participating counties that prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and motor vehicle facilities. The bill would authorize activities including, but not limited to, the acquisition, protection, restoration, and enhancement of streams, creeks, marshlands, diked lands, ponds, submerged and tidal portions of the bay, wetlands, watersheds, agricultural open space, roads, trails, and related research planning and educational activities.~~ The bill ~~subjects~~ *would subject* authorized projects and grants to specified procedures, criteria, and priorities. The bill would require that funds be expended for projects and grants in participating counties so that, in any 2 2-year periods as prescribed, project and grant benefits are generally proportional to the revenues collected in each participating county, as specified.

The bill would require the conservancy and regional water quality control boards, as applicable, at least once every 2 years, to each undertake an audit of the program of projects and grants funded through the subaccount.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares the following:

(a) Motor vehicles and their related facilities and infrastructure, including, but not limited to, highways, streets, roads, and parking lots, contribute to nonpoint source pollution and environmental degradation. The adverse impacts of motor vehicles and these related facilities and infrastructure on surface waters, water-related habitat, and other open space may include, but are not limited to, the following:

(1) Increased amount of impervious surfaces resulting in higher total and peak water runoff and reduced dry season flows, affecting water temperature, groundwater supply, erosion rates, turbidity, sedimentation, and creek bank stability.

(2) Stream channelization and other physical structures, including culverts, to accommodate street and road construction that affect waterflows, erosion rates and delivery of pollutants, habitat availability, the movement of fish and wildlife, and public access to natural areas.

(3) Pollutants and fine particulates generated by automobiles that enter the environment through the air, affecting the health of fish, wildlife, and people.

(4) Increased potential for the conversion of agricultural, watershed, and habitat lands to other uses.

(b) The State Water Resources Control Board has identified the waters of the San Francisco Bay area as having impairments for beneficial uses due to a combination of point and nonpoint source pollution and habitat degradation, and has placed these waters on the Section 303(d) list pursuant to the federal Clean Water Action Plan of 1998.

(c) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), in conjunction with the Porter-Cologne Water Quality Control Act (Div. 7 (commencing with Section 13000), Wat. C.) and other statutes and regulations, mandates improved water quality in the San Francisco Bay area, and requires a comprehensive approach that addresses both point and nonpoint source water pollution and associated habitat degradation.

(d) Chapter 4.5 (commencing with Section 31160) of Division 21 of the Public Resources Code establishes the San Francisco Bay

1 Area Conservancy Program and assigns to the State Coastal  
2 Conservancy responsibility for the implementation of a  
3 comprehensive program of projects and grants throughout the  
4 nine-county San Francisco Bay area that includes, but is not  
5 limited to, restoration, enhancement, and protection of wetlands,  
6 streams, riparian areas, and watersheds.

7 (e) Existing statutory programs and regulations do not provide  
8 sufficient methods to ameliorate the impacts of motor vehicles and  
9 existing related facilities and infrastructure on water quality,  
10 habitat, and open space.

11 (f) New methods of ameliorating the impacts of motor vehicles  
12 and related facilities and infrastructure on the bay, other waters,  
13 water-related habitat, and other open space are needed for the  
14 nine-county San Francisco Bay area.

15 (g) Efforts to address the impacts described in this section are  
16 most effective when public agencies work together and in  
17 partnership with community-based organizations and interests.

18 (h) *A fee of up to four dollars (\$4) upon the registration or*  
19 *registration renewal of every motor vehicle registered in counties*  
20 *that choose to participate in the program described in Section*  
21 *31165 of the Public Resources Code is fair and reasonable in*  
22 *relation to the adverse environmental burdens imposed by motor*  
23 *vehicles and their related facilities, given that the cost of*  
24 *remedying these environmental burdens is significantly greater*  
25 *than the amount of revenues that would be raised by that fee.*

26 SEC. 2. Section 31164 of the Public Resources Code is  
27 amended to read:

28 31164. (a) The San Francisco Bay Area Conservancy  
29 Program Account is hereby created in the State Coastal  
30 Conservancy Fund, for the purpose of depositing and disbursing  
31 funds for the administration and implementation of the San  
32 Francisco Bay Area Conservancy Program.

33 (b) (1) The money in the account created pursuant to  
34 subdivision (a) shall be segregated into three subaccounts, as  
35 follows:

36 (A) The first subaccount shall contain funds that are  
37 appropriated by the Legislature for the purposes of this chapter.  
38 Any interest that accrues on the funds in this subaccount shall be  
39 transferred to, and deposited into, the General Fund. The  
40 conservancy shall account for all deposits or reimbursements of

funds in this subaccount that are derived from funds that were appropriated by the Legislature for the purposes of this chapter.

~~(B) (i) The second subaccount is the Transportation Fund For Clean Water Subaccount and shall contain funds derived from fees collected by the Department of Motor Vehicles pursuant to Section 9250.20 of the Vehicle Code. The Transportation Fund For Clean Water Subaccount is established when the conservancy first requests the Department of Motor Vehicles to collect a fee pursuant to Section 31165. Upon appropriation, funds in the subaccount shall be used for projects and grants to address and mitigate the impact of motor vehicles, motor vehicle facilities, and related infrastructure in the nine-county San Francisco Bay area, as described in subdivision (a) of Section 31165.~~

~~(ii) Not more than 5 percent of the fees deposited in the Transportation Fund For Clean Water Subaccount may be used by the conservancy for its administrative costs.~~

~~(iii) Ten percent of the fees deposited in the Transportation Fund For Clean Water Subaccount shall be transferred by the conservancy to the State Water Resources Control Board. Those funds shall be made available to the regional water quality control boards having jurisdiction in the nine-county San Francisco Bay area described in subdivision (a) of Section 31165, to be used in accordance with Section 31166, either by the boards directly, or to develop and implement grant programs, to support research and education designed to improve scientific and public understanding of, and to prevent, reduce, remediate, or mitigate the impacts of motor vehicles, motor vehicle facilities, and related infrastructure on water quality, water-related habitat, and watersheds within the nine-county San Francisco Bay area. In determining research and education needs and priorities, the regional boards shall consult with the San Francisco Bay Conservation and Development Commission, the Metropolitan Transportation Commission, the Association of Bay Area Governments, the air quality management district or air pollution control district having jurisdiction in the nine-county San Francisco Bay area described in subdivision (a) of Section 31165, participating counties, and other wetland, riparian, and watershed restoration and protection organizations as the regional boards determine appropriate. Up to 5 percent of the total amount transferred to the board may be used by the regional boards for administrative costs. Funds transferred~~

~~pursuant to this clause shall also be available for grants to local watershed groups, nonprofit organizations, and public agencies to plan, manage, and develop eligible projects consistent with local watershed management plans as defined by Section 79078 of the Water Code, or other equivalent local, state, or federally supported watershed protection programs.~~

~~(C) The third~~

*(B) The second subaccount shall contain funds that are derived from all other sources, exclusive of federal funds, for the purposes of this chapter, including, but not limited to, private donations, fees and penalties, and local government contributions. Any interest that accrues on the funds in this subaccount shall be retained in the subaccount and shall be available for expenditure by the conservancy for the purposes of this chapter. Not more than 3 percent of the funds that are deposited in this subaccount shall be utilized by the conservancy for general administration and planning purposes. No funds shall be expended from this subaccount for any activity that would legally require a commitment of state funds in the future. Notwithstanding Section 13340 of the Government Code, the funds in this subaccount are continuously appropriated, without regard to fiscal year, to the conservancy for expenditures for the purposes of this chapter.*

*(C) The third subaccount is the Motor Vehicle Mitigation Subaccount and shall contain funds derived from fees collected by the Department of Motor Vehicles pursuant to Section 9250.20 of the Vehicle Code. Notwithstanding Section 13340 of the Government Code, 90 percent of the funds in this subaccount shall be continuously appropriated, without regard to fiscal year, to the conservancy, and 10 percent of the funds in this subaccount shall be continuously appropriated, without regard to fiscal year, to the State Water Resources Control Board. Those funds may only be expended for the purposes specified in Sections 31165 and 31167.*

(2) All reimbursements, proceeds of sale, or other money received by the conservancy for the purposes of this chapter that are not expended on projects under the San Francisco Bay Area Conservancy Program shall be redeposited in the appropriate subaccount of the account.

(c) The conservancy shall not be required to undertake any activities pursuant to this chapter until such time that funds from new sources of funding that are not currently available to the

conservancy for those purposes are appropriated by the Legislature or otherwise deposited in the account, and until such time that any administrative or general planning funds expended by the conservancy for the purposes of this chapter prior to any such appropriations or deposits being available for expenditure by the conservancy are reimbursed to the State Coastal Conservancy Fund.

SEC. 3. Section 31165 is added to the Public Resources Code, to read:

31165. (a) Until January 1, 2015, the conservancy may request that the Department of Motor Vehicles collect a fee of up to four dollars (\$4) upon the registration or renewal of registration of every motor vehicle registered in *all* eligible counties that elect to participate, ~~but only after at least three such.~~ *Pursuant to Section 9250.20 of the Vehicle Code, the department may begin collection only after three or more eligible counties elect to participate.* Eligible Counties include Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma. The registration fee shall be computed in the manner specified by Section 9559 of the Vehicle Code. A county may elect to participate *only* by a majority vote of the membership of its board of supervisors. ~~The conservancy shall request, until January 1, 2015, the Department of Motor Vehicles, pursuant to Section 9250.20 of the Vehicle Code, to collect these fees at the time of registration or the renewal of registration of motor vehicles registered in those participating counties.~~

~~(b) Fees deposited in the Transportation Fund For Clean Water supervisors. If the amount of fees collected by the department in the previous fiscal year exceeds the reasonable cost of fulfilling the purposes of this section as determined by the conservancy, the conservancy shall request a reduced fee level to be collected by the department in the current fiscal year.~~

~~(b) (1) All funds appropriated to the conservancy from the Motor Vehicle Mitigation Subaccount may only be used by the conservancy for the purpose of administering and funding projects and grants to nonprofit organizations and public agencies that prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and motor vehicle facilities through activities including, but not limited to, the acquisition, protection, restoration, and enhancement of streams, creeks, marshlands,~~

~~1 diked lands, ponds, submerged and tidal portions of the bay,  
2 wetlands, watersheds, agricultural land, open space, roads, trails,  
3 and related research, planning, and educational activities, subject  
4 to the procedures, criteria, and priorities of this chapter, and the  
5 following additional criteria and priorities: and motor vehicle  
6 facilities. The requirements of Section 31166 apply to all funds  
7 expended pursuant to this paragraph.~~

*(2) Up to 5 percent of the funds appropriated to the conservancy from the Motor Vehicle Mitigation Subaccount may be used to reimburse the conservancy for the costs incurred by the conservancy under this section and Section 31167.*

*(c) (1) All funds appropriated to the State Water Resources Control Board from the Motor Vehicle Mitigation Subaccount shall be allocated to the regional water quality control boards having jurisdiction in the nine-county San Francisco Bay area described in subdivision (a) of this section. Those boards together may expend the funds directly or may develop and implement a grant program, only to prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and motor vehicle facilities on water quality, water-related habitat, and watersheds within the nine-county San Francisco Bay area. In developing the grant program or directly doing projects as authorized by this subdivision, those regional water quality control boards may use local watershed management plans as defined by subdivision (c) of Section 79078 of the Water Code, or other equivalent local, state, or federally supported watershed protection programs. The requirements of Section 31166 apply to all funds expended pursuant to this paragraph.*

*(2) Up to 5 percent of the funds appropriated to the State Water Resources Control Board from the Motor Vehicle Mitigation Subaccount may be used to reimburse the regional boards for costs incurred by the regional boards under this section and Section 31167.*

*(d) (1) Projects and grants shall be consistent with the adopted plans of the applicable regional water quality control board, applicable watershed management initiatives, or other adopted plans that identify goals, objectives, and implementation strategies for achieving the goals of and compliance with this chapter and related statutes, including, but not limited to, Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and*

Game Code, Article 4 (commencing with Section 13160) of Chapter 3 of, Article 3 (commencing with Section 13240) of Chapter 4 of, and Chapter 5.6 (commencing with Section 13390) of, Division 7 of the Water Code, and Division 2 (commencing with Section 2001) of this code.

(2) Funds in the ~~subaccount~~ *Motor Vehicle Mitigation Subaccount* may not be used to fund any part of a project or activity required to satisfy a condition imposed by a permit, license, certificate, or other entitlement, other than a permit, license, certificate, or entitlement required for a project funded in whole or in part from funds in the subaccount, issued by one or more public agencies, including, but not limited to, the mitigation of significant effects on the environment of a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)). However, funds in the subaccount may be used to support public projects or activities that are included in the implementation measures of a county's Municipal Storm Water National Pollutant Discharge Elimination System Permit issued by a regional water quality control board pursuant to subparagraph (A) of paragraph (4).

(3) Priority shall be given to those projects and grants that most effectively accomplish the purposes of this section through the long-term protection, ~~and restoration, and enhancement of the natural environment or areas used for agriculture that are impacted by~~ *of natural resources impacted by* motor vehicles and motor vehicle facilities.

(4) Eligible expenditures are limited to projects and activities that prevent, reduce, remediate, or mitigate the adverse water quality and environmental impacts of motor vehicles and motor vehicle facilities including, but not limited to, the following:

~~(A) Nonpoint source pollution treatment and pollution reduction projects, for the purpose of preserving and restoring natural wetland and watershed functions, such as constructed, restored, and enhanced wetlands, marshlands, diked lands, ponds, streams, creeks, riparian areas, and watersheds.~~

~~(B) Restoration of all of the following:~~

~~(i) The functions, components, and diversity of a natural functioning stream system, including, but not limited to, the flood~~

1 ~~plains, active bankfull channels, meanders, and riparian~~  
2 ~~resources.~~

3 ~~(ii) A desired balance between runoff and sediment~~  
4 ~~contributions in a watershed, including, but not limited to,~~  
5 ~~reducing the adverse effects of excessive runoff from roads and~~  
6 ~~parking lots, improving water conservation and groundwater~~  
7 ~~recharge, and controlling excessive erosion from creek banks,~~  
8 ~~road cuts, culverts, and bridges.~~

9 ~~(iii) Aquatic and terrestrial habitats, including, but not limited~~  
10 ~~to, the removal of barriers to fish and wildlife migration.~~

11 ~~(iv) Fish rearing and spawning habitat and aquatic, riparian,~~  
12 ~~and flood plain habitats.~~

13 ~~(C) Acquisition of riparian buffers and watershed lands to~~  
14 ~~protect, restore, and enhance the function of riparian and~~  
15 ~~associated habitats and to protect, restore, and enhance the~~  
16 ~~movement of fish and wildlife within and between those habitats.~~

17 ~~(D) Acquisition of land and conservation easements to protect~~  
18 ~~or facilitate the restoration of habitats and connecting corridors,~~  
19 ~~agricultural land, and other open spaces impacted by motor~~  
20 ~~vehicles and motor vehicle facilities.~~

21 ~~(E) Research and education to improve scientific and public~~  
22 ~~understanding of the impacts of motor vehicles and motor vehicle~~  
23 ~~facilities and related infrastructure on water quality, habitat, and~~  
24 ~~the movement of fish and wildlife within and between those~~  
25 ~~habitats, as well as the most effective projects and management~~  
26 ~~practices for preventing, reducing, remediating, or mitigating~~  
27 ~~those impacts.~~

28 ~~(F) The acquisition, development, rehabilitation, or~~  
29 ~~improvement of nonmotorized trails and facilities that help reduce~~  
30 ~~impacts by providing alternatives to motor vehicle use. *vehicle*~~  
31 ~~*facilities.*~~

32 (5) To the extent feasible, in carrying out the purposes of this  
33 chapter, the conservancy shall utilize the services of the California  
34 Conservation Corps and Community Conservation Corps, as  
35 defined in Section 14507.5, and any other nonprofit organization  
36 that the conservancy determines has relevant and demonstrated  
37 capacity and expertise.

38 (6) In determining priorities, and in designing and carrying out  
39 these projects, the conservancy shall consult with the appropriate  
40 Regional Water Quality Control Board. The conservancy shall

also consult with local governments, affected special districts and agencies, and nonprofit organizations. *Before making funds available for a grant or project pursuant to this section, the conservancy shall make findings that the expenditure of funds is consistent with the requirements of this section.*

~~(e)–~~

(e) The use of the fees imposed upon the registration or registration renewal of every motor vehicle registered in eligible participating counties would not result in the imposition of a tax within the meaning Article XIII A of the California Constitution, because the amount and nature of the fee has a fair and reasonable relationship to the adverse environmental burdens imposed by motor vehicles and their related facilities and infrastructure, and there is a sufficient nexus between the fees imposed and the use of those fees to support the prevention, reduction, remediation, and mitigation of the adverse water quality and environmental impacts caused by motor vehicles ~~and their related facilities and infrastructure.~~

SEC. 4. Section 31166 is added to the Public Resources Code, to read:

31166. Funds shall be expended for projects within those counties that elect to participate pursuant to Section 31165. In counties that do not elect to participate pursuant to Section 31165, no funds may be expended. Funds shall be distributed for projects and grants in participating counties in a manner that, over any two two-year periods prescribed by Section 31167, project and grant benefits are ~~generally~~ proportional to the revenues collected in each participating county pursuant to Section 9250.20 of the Vehicle Code for vehicles registered in that county.

SEC. 5. Section 31167 is added to the Public Resources Code, to read:

31167. The conservancy and the regional water quality control boards, as applicable, shall, at least once every two years, each undertake an audit of the program of projects and grants funded, in whole or in part, through the ~~Transportation Fund For Clean Water~~ Motor Vehicle Mitigation Subaccount. The audit shall, at a minimum, evaluate the degree to which resources adversely impacted by motor vehicles and motor vehicle-related facilities and infrastructure have been protected, restored, or rehabilitated, the level of matching funds obtained, and the

1 distribution of funds and projected benefits by county. The audit  
2 shall be made available to the Legislature, participating counties,  
3 other interested agencies, and the public upon request.

4 SEC. 6. Section 9250.20 is added to the Vehicle Code, to read:

5 9250.20. (a) The department shall, if requested by the State  
6 Coastal Conservancy pursuant to subdivision (a) of Section 31165  
7 of the Public Resources Code, collect a fee of up to four dollars  
8 (\$4), upon the registration or renewal of registration of any motor  
9 vehicle registered in the Counties of Alameda, Contra Costa,  
10 Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, or  
11 ~~Sonoma, if the county has elected to participate in the~~  
12 ~~Transportation Fund For Clean Water Subaccount, except those~~  
13 ~~Sonoma, except those~~ vehicles that are expressly exempted under  
14 this code from the payment of registration fees. The department  
15 shall begin collecting the fee in each county ~~that elects to~~  
16 ~~participate in the Transportation Fund For Clean Water~~  
17 ~~Subaccount~~ on January 1 of the fiscal year immediately following  
18 the date the department receives the request to do so from the State  
19 Coastal Conservancy. The fee shall be included by the department  
20 in any fee statement or notice as part of its designation of  
21 county/district fees.

22 (b) After deducting necessary and reasonable costs incurred by  
23 the department pursuant to this section, the department shall remit  
24 the balance of the revenues received pursuant to this section to the  
25 Treasurer who shall deposit those revenues in the ~~Transportation~~  
26 ~~Fund For Clean Water Motor Vehicle Mitigation~~ Subaccount  
27 established pursuant to ~~subdivision (a) of Section 31165 of the~~  
28 ~~Public Resources Code. subparagraph (C) of Section 31164 of the~~  
29 *Public Resources Code. The department shall, upon remittance,*  
30 *notify the Treasurer, the State Water Resources Control Board, and*  
31 *the State Coastal Conservancy of the total amount remitted from*  
32 *each participating county.*